

No. 12946.

IN THE

# United States Court of Appeals

FOR THE NINTH CIRCUIT

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AMERICAN CRYSTAL SUGAR COMPANY, a corporation,  
*Appellant,*

*vs.*

MANDEVILLE ISLAND FARMS, INC., a corporation, ROSCOE  
C. ZUCKERMAN and G. K. EVANS,  
*Appellees.*

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AFFIDAVIT IN SUPPORT OF PETITION FOR  
ATTORNEY FEES ON APPEAL.

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WOOD, CRUMP, ROGERS & ARNDT,  
STANLEY M. ARNDT and  
GUY RICHARDS CRUMP,  
458 South Spring Street,  
Los Angeles 13, California,

*Attorneys for Petitioners and Appellees.*

**FILED**

JAN 22 1952



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State of California, County of Los Angeles—ss.

STANLEY M. ARNDT, being first duly sworn, deposes  
and says:

Appellees herein, simultaneously with the filing of their  
brief as appellees, filed their petition for attorney fees  
on appeal, wherein it was stated:

“The Sherman Act provides for attorney fees to  
a successful plaintiff. The trial court awarded \$25,-  
000 to cover attorney fees ‘*up to the time of judg-  
ment.*’ [Finding 20; R. 267; Supp. to appellees’  
brief, p. 46], which, therefore, did not cover at-  
torney fees on this appeal. Attorney fees for this  
appeal should be awarded by this court. *American  
Can Co. v. Bruce’s Juices, Inc.*, 190 F. 2d 73, 74;

*Laufenberg, Inc. v. Goldblatt Bros., Inc.*, 187 F. 2d 823, 825; *Jerome v. 20th Century-Fox Film Corporation*, 165 F. 2d 784, 785. Until oral argument we will not know the full extent of the services performed. Therefore, at the time of oral argument (unless this court selects another date) we will present to this court an affidavit setting forth the amount of services that have been performed since judgment was entered and the reasonable value thereof and we will ask this court to make an additional allowance of attorney fees in an amount shown thereby to be fair and reasonable, in accordance with the authorities above set forth and the provisions of the Sherman Act.”

However, in order to give appellant an opportunity to check the figures herein presented and to reply prior to the time of oral argument, we serve and file this affidavit at the present time.

Affiant at all times during the progress of this litigation was, and now is, an attorney at law duly admitted to practice before the District Courts of the United States in and for the Southern District of California and the Northern District of California, the Court of Appeals for the Ninth Circuit, the Supreme Court of the United States, all of the state courts of New York and California, etc. Affiant has been a California practicing attorney since 1920. Affiant has served as Special Master in various cases under appointment by the United States District Court for the Southern District of California and has written various articles on legal subjects that appeared in the California Law Review and various other legal periodicals and has personally handled many appeals involving intricate and difficult legal questions.

Affiant has handled these causes on behalf of plaintiffs below from the original investigation of the facts prior to filing suit, through the first series of appeals to the Supreme Court, and up to and including the present time.

The firm of attorneys representing appellant is one of the most distinguished, experienced and able law firms in California.

Appellants herein filed their notice of appeal with the Clerk of the District Court on March 28, 1951. Affiant has spent 176 hours in connection with this appeal and the matters involved therein since March 28, 1951, and expects to spend further time in preparing for argument and in argument. Affiant has office records kept in the usual course of business showing the details of this time record and such records are open to the inspection of counsel for appellant or their accountants at any reasonable time or times prior to the oral argument for the purpose of permitting appellant to check such time records.

Affiant's usual and regular charge for his services for ordinary run of the mill office work is, and at all times since March 28, 1951, has been \$30 an hour. Affiant recognizes that the time involved is but one of the elements to be considered.

Affiant is familiar with the elements recognized in determining proper and reasonable attorney fees by this court (*Sampsell v. Monell*, 162 F. 2d, 4, 6) by the California state courts (3 *Cal. Jur.* p. 698, 1 *Cal. Jur. 10-yr. Supp.* p. 831) and by the general authorities on the subject (7 *C. J. S.* p. 1080, *et seq.*).

Giving due consideration to each of the elements recognized by the above authorities in determining proper

and reasonable attorney fees, it is the opinion of affiant that the reasonable value of affiant's services in connection with this appeal, including the time that should be reasonably necessary to prepare for argument and appearance on oral argument and argument of this cause on oral argument in San Francisco on February 4, 1952, is \$6,000.00.

Wherefore, affiant prays that this court award respondents the sum of \$6,000.00 as attorney fees on this appeal.

STANLEY M. ARNDT.

Subscribed and sworn to before me this 21st day of January, 1952.

(seal)

C. O. BURCH,

*Notary Public in and for said County and State.*



